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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/815,370	03/22/2001	Jeff Davies	9156.00	4267

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Intellectual Property Section
Law Department
NCR Corporation
101 West Schantz, ECD-2
Dayton, OH 45479-0001

EXAMINER	
GARG, YOGESH C	

ART UNIT	PAPER NUMBER
3625	

DATE MAILED: 04/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

 I. Claims 1-15, 16-23, and 26-38, drawn to a system and a method for an user to arrange on-line agreement for buying and selling goods/services and authorizing payment, classified in class 705, subclass 26.

 II. Claim 24, drawn to a web site for authorizing payment for sale by using a code off-line, classified in class 705, subclass 40.

 III. Claim 25, drawn to a web -interface for enabling a user to input request for off-line payment, classified in class 705, subclass 40.

 IV. Claim 39, drawn to a process of conducting electronic commerce of purchasing goods/services by selecting "offline" payment, financial institution transferring funds to the provider and processing the order and supplying the goods/services, classified in class 705, subclass 26.

 V. Claims 40-57 drawn to a process of facilitating a payment by transmitting the identification code to a financial institution and financial instigating the payment, where the Identification code is issued by a merchant or a third party.

2. The inventions are distinct, each from the other because:

Inventions I and II-III are related as combination and subcombinations Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the

subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the Invention I representing combination as claimed does not require the particulars of the subcombination Inventions II and III as claimed because Invention I does not specify the use of off-line payments. The subcombination has separate utility such as making offline payments.

The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus of Invention I as defined by claims 1-23 cannot be used to practice the manipulative steps of selecting "offline" payment, financial institution transferring funds to the provider and processing the order and supplying the goods/services required in Invention IV and as such the invention IV can be practiced by another materially different apparatus from that of Invention I.

Similarly, the apparatus of Invention I as defined by claims 1-23 cannot be used to practice the manipulative steps of facilitating a payment by transmitting the identification code to a financial institution and financial instigating the payment, where the Identification code is issued by a merchant or a third party required in Invention V and as such the invention V can be practiced by another materially different apparatus from that of Invention I.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and recognized divergent subject matter, search strategies required for different inventions are different, restriction for examination purposes as indicated is proper.

4. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

5. ***SPECIES***

This application contains claims directed to the following patentably distinct species of the claimed invention.

5.1. In the event applicant elects Invention I above, he is further obligated to elect among the following species as follows:

species of claims 8, 10, 18, 33;

species of claims 8, 11, 19, 34;

species of claims 8, 12, 20, 35;

species of claims 8, 13-15, 21-23, 36-38;

species of claims 9, 10, 18, 33;

species of claims 9, 11, 19, 34;

species of claims 9, 12, 20, 35;

species of claims 9, 13-15, 21-23, 36-38;

5.2. In the event applicant elects Invention V above, he is further obligated to elect among the following species as follows:

species of claims 51, 53;

species of claims 51, 54;

species of claims 51, 55-57;

species of claims 52, 53;

species of claims 52, 54;

species of claims 52, 55-57;

6. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1-7, 16-17, 26-32 are generic in Invention I and claims 40-50 are generic in Invention V .

7. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

8. Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

9. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yogesh C Garg whose telephone number is 703-306-0252. The examiner can normally be reached on M-F(8:30-4:00). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent A Millin can be reached on 703-308-1065. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Yogesh C Garg
Examiner
Art Unit 3625

YCG
April 1, 2004